

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Alfred Villa,

NO. C 03-04766 JW

Petitioner,

**ORDER GRANTING HABEAS CORPUS
PETITION**

v.

Michael Knowles, Warden,


Respondent.

Pursuant to the Ninth Circuit remand in this action,¹ the Court GRANTS Petitioner's Petition for Writ of Habeas Corpus and remands the case to the state trial court to amend Petitioner's Judgment as follows:

- (1) As to pre-sentence credits, Petitioner's pre-sentence credits shall be recalculated pursuant to Penal Code § 4019, and he shall be awarded 142 days § 4019 credits. The court shall issue a minute order and Amended Judgment to reflect these modifications.
- (2) With respect to post-conviction credits, the trial court shall issue a minute order and amended abstract of judgment to the Department of Corrections to restrict Petitioner's prison credits under Penal Code § 2933.1 only as to the 12 years of consecutive sentences imposed as to Counts 14 and 15, and order that as to all other portions of Petitioner's sentence, he is entitled to the one-for-one credits of § 2933.²

Within thirty (30) days from the date of this Order, Respondent shall file a notice with the Court as well as the required Amended Judgment from the state trial court confirming that the state has complied with the Court's Order.

Dated: September 27, 2010



JAMES WARE
United States District Judge

¹ (See Docket Item Nos. 43, 44.)

² Although on remand, the Ninth Circuit left open the issue of whether § 2933.1 may be applied to Counts 14 and 15, Petitioner, in his post-remand brief, concedes that § 2933.1 applies to both counts. (See Docket Item No. 47 at 2-3.) Petitioner further clarifies that he has never disputed the correctness of the state appellate court's conclusion on this issue. (*Id.*) Accordingly, the Court finds that there is no longer any controversy in the Petition regarding credit restrictions and issues this Order and Amended Judgment granting the Petition for Habeas Corpus.

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

Arthur Paul Beever arthur.beever@doj.ca.gov
Glenn R. Pruden glenn.pruden@doj.ca.gov
John H. Deist John.Deist@doj.ca.gov
William M. Robinson bill@sdap.org

Dated: September 27, 2010

Richard W. Wieking, Clerk

**By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy**